BEFORE THE HON'BLE HIGH COURT OF JUDICATURE

CHHATTISGARH AT BILASPUR (C.G.)

IN THE MATTER OF W.P.NO.257/2001

BETWEEN

KHOM PRASAD SHARMA aged 35 years
Son of Shri S.N. Sharma, Director,
Kuber Grih Nirman Co-operative Housing
Society, Resident of Shanker Nagar,
Raipur (C.G.)

VERSUS

1. Deputy Registrar,
Cooperative Society, Mr. H.L. Rayastha
Officer of Dy. Registrar Cooperative
Societies, G. E. Road, Raipur (C.G.)

2. C.L. Chandrawanshi, aged ___ years,
Officer incharge/Cooperative Inspector,
Office of the Asst Registrar,
Cooperative Society (Audit)
G.E. Road, Raipur (C.G.)

3. ~~State of Chhattisgarh,~~
~~Through Commissioner, Cooperative~~
~~Mantralaya, D.K. Bhawan,~~
~~Raipur~~ (C.G.)

3. Kuber Grih Nirman Cooperative Society
Rohini Puram,
Raipur (C.G.)

PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

257

आदेश पत्रक

मामला क्रमांक W.P.No.357/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	17.10.2001 Shri Prashant Mishra, learned counsel for the petitioner. Shri Gautam Bhaduri, learned Government Advocate for the respondent No.1. Shri A.K.Tiwari, learned counsel for the intervener. Heard the counsel for the parties. The petitioner's society namely Kuber Grih Nirman Co-operative Society was superseded by an order issued on 9.3.2001 by the Deputy Registrar. The said order has been impugned in the present petition mainly on the ground that the order of supersession is not sustainable because clearly there were six members out of eleven Board Members at the time the order of supersession was issued. Rule 43 sub-rule 6 of M.P.Co-operative Societies Rule, 1962 states "6) The quorum for the meeting of the committee shall be as provided in the bye-laws but in any case it shall be more than 50% of the total number of the members". Of the total members of eleven Board Members, six members would form the quorum. It is contended that	

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at the time of the order of supersession four members had resigned. Another member had also been removed from membership. It may be stated that subsequently the order of removal was set aside but that took place long after the order of supersession was issued. It appears that the decision of this case would hinge upon membership of one S.K.Sable. The said S.K.Sable put in resignation on 8.3.2001. On 9.3.2001, Deputy Registrar asked said S.K.Sable to come to the Office for confirmation of his letter of resignation. Thereafter, what actually happened is not clearly ascertainable.

Shri A.K.Tiwari appearing for the Intervener who is a member of the Society submits that though there is no clear order of acceptance or subsequent statement recorded about the actual confirmation ascertained from S.K.Sable it is said to infer from the order of supersession that the resignation was actually accepted.

As against this submission, Shri Prashant Mishra submits that infact the authority to accept resignation is the Executive Committee of the Society. This averment has been made in the rejoinder submitted in the present case. According to Shri Prashant Mishra an affidavit has been filed by Shri S.K.Sable himself to say that he did not want to press resignation put in by him on 8.3.2001 and therefore he continued to be

(Contd...3..)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(258)

आदेश पत्रक

W.P.No.357/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

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	a member of the Board of the said Society. In support of this contention Shri Prahsant Mishra submits that the said S.K.Sable attended and participated in the Board Meetings on 24.12.2000, 11.2.2001, 13.5.2001 and 12.8.2001 vide Annexure P-10. It is further submitted that such averments made by the petitioner have not been ~~reverted~~ rebutted. Therefore what is clear to me is that S.K.Sable put in his resignation on 8.3.2001. In my view, the said paper for resignation could have been acted upon straight away. There was no need of any verification or confirmation. However having been asked for his confirmation, in my view subsequent action should have been reflected in official document that infact it was confirmed from him that he has actually resigned. This position however is now a disputed one in view of the stand taken by S.K.Sable that he did not want to press his paper for resignation and that he wanted to continue as Board Member and accordingly he participated in as many as about four or five subsequent Meetings after the order for supersession was issued. Further, there is nothing to show on record that the Executive Committee of the Board had infact	

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considered the request for resignation of S.K.Sable. If that be so, in my view it cannot be said that resignation of S.K.Sable had been accepted by the Competent Authority. I am also further of the view that if the submission of Shri A.K.Tiwari as well as of Shri Gautam Bhaduri is to be accepted that the resignation should be deemed to have been accepted in view of the order of supersession which has a clear reference to the resignation of S.K.Sable, then it would have been impossible for this man to participate in subsequent Board Meetings. It is not the case of any party before me that his participation was at any stage objected to.

In the light of what I have ~~said~~ stated above, I am of the view that at the time order of supersession was issued clearly there were six Board Members available. If that be so, quorum to hold meetings and to function the Society was clearly available at that time. In view of this, I must hold that the order of supersession dated 9.3.2001 is bad. The same therefore is set aside.

The petition is dismissed.

Sd/-
Chief Justice

ss/-

GRPRJ—FS/311—1/2001—50,000.